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6/13/51

June 9, 1951  
Op. No. 51-157

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ARIZONA ATTORNEY GENERAL

Mr. William A. Scanland  
County Attorney  
Pinal County Courthouse  
Florence, Arizona

Dear Mr. Scanland:

We have your letter of June 6 wherein you request an opinion from this office on the following question:

"Does Chapter 68, Senate Bill 25, of the 19th Legislature, prohibit the same person from holding the office of Police Judge of the Town of Florence and also the office of Justice of the Peace of the Precinct in which that Town is located?"

We believe the answer to your question is found in Article 6, Section 9 of the Arizona Constitution. This section reads as follows:

"(Justices of peace.)--The number of justices of the peace to be elected in incorporated cities and towns and in precincts, and the powers, duties, and jurisdiction of justices of the peace, shall be provided by law: Provided, that such jurisdiction granted shall not trench upon the jurisdiction of any court of record, except that said justices shall have concurrent jurisdiction with the superior court in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damage claimed does

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not exceed two hundred dollars: and  
Provided that justices of the peace  
may be made police justices of in-  
corporated cities and towns. Prose-  
cution may be instituted in courts  
other than courts of record upon  
sworn complaint." (Emphasis supplied)

The part of Chapter 68, Senate Bill 25, of the Nineteenth  
Legislature, in question is:

"12-110. Incumbent filing for election.--  
(a) No person shall hold more than one  
office at the same time, \* \* \* "

As was stated in your letter, it is doubtful whether or  
not a police judge is a public officer, but with your per-  
mission we are not going to answer this question. Suffice  
it to say that if Section 12-110 ACA 1939, as amended, does  
conflict with Article 6, Section 9, of the Arizona Constitu-  
tion, then of course the constitutional provision must pre-  
vail, insofar as they are inconsistent. Therefore, it is  
our opinion that the police judge of the town of Florence  
may also hold the office of justice of the peace.

Very truly yours,

FRED O. WILSON  
Attorney General

KENT A. BLAKE  
Assistant Attorney General

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